Public Law 100-679

The History of Cost counting Standards

Exceptions

CAS

Preambles

Public Law 91-357

History of CAS

- During the **Revolutionary War** American militia used their own rifles, their own bullets, and powder to fight.
- Rifles were not interchangeable.
- Small quantities of unique bullets and powder were bought as needed.
- There was perfect competition.
- A **problem developed** with the powder, if it rained, it didn’t work.

History of CAS

- The problem was solved with a newly developed powder that worked even when it was wet.
- The only trouble was that it was more expensive and not many companies made it.
- This decreased competition but solved the wet powder problem.

History of CAS

- As technology improved and wars got bigger, the procurement mechanisms evolved in an attempt to impose fairness in a world of **decreasing competition**.
- The result was a trend toward increased government involvement and regulation.

History of CAS

- In **1950**, the Korean War prompted the *Defense Production Act,* which strengthened American productive capacity with regard to materials and facilities by prioritizing and systematizing the allocation of resources.
- Although this was an emergency measure (most of the economic controls were later terminated), Congress has renewed many provisions to the present.

History of CAS

- During the Vietnam Era, the **1968** hearings related to the renewal of the Defense Production Act were the milestone that sparked the development of the cost accounting standards.
- *Admiral Rickover* testified at committee hearings that accounting practices between contractors were neither uniform nor consistent.

History of CAS

- Although there was other testimony regarding excessive profits for contractors, he said it was nearly **impossible to ascertain *profits*** on a particular contract.
- Why?
- There was a lack of control over definitions of, and shifting treatment of, **contract cost.** (If cost is was out of control, then so was profit!)

History of CAS

- As defense procurement dollars increased, Congress grew concerned that the government was **unable to compare cost data for negotiated defense contracts among differing bidders, or even among different contracts with the same contractor!**
- The government's position was fast becoming less than favorable.

History of CAS

- Admiral Rickover recommended Congress provide **uniform accounting standards.**
- The committee responded as all committees do -- a feasibility study was conducted!

History of CAS

- Not surprisingly, **contractors opposed the move toward uniform standards**, arguing that the term "uniform accounting standards" was too vague, impractical or meaningless.
- They argued that *GAAP* and the *ASPR* (*Armed Services Procurement Regulations*, the forerunner of DAR and FAR) were adequate.

History of CAS

- Proponents of the standards argued that **GAAP**, with its focus on financial accounting, **does not have adequate criteria to ensure uniform and consistent contract costing methods.**
- Furthermore, without uniform standards, the burden of evaluating a myriad of different cost accounting systems falls upon the procuring agencies, which could result in more work and higher procurement costs.

History of CAS

- The study concluded that it was **feasible to establish uniform cost accounting standards** and that the **cost savings to the government would be substantial**.
- In 1970, Congress enacted *Public Law 91-379 , which* created the Cost Accounting Standards Board (CASB).

PL 91-379... *So what did this public law do for us?*

- Established in **1970**, Public Law 91-379 created a five-person Cost Accounting Standards Board (CASB) comprised of the Comptroller General (the Chairperson) and **four** persons appointed by the Comptroller for a **four** year term from the following areas:
- 1 from industry
- 1 from a federal agency
- 2 from the accounting profession

PL 91-379... *So what did this public law do for us?*

- The law allowed the Board to promulgate standards designed to achieve uniformity and consistency in the cost accounting principles followed by federal **defense contractors** and **subcontractors**.
- The standards would be used for the ***estimating, accumulating, and reporting* of costs** in connection with the pricing, administration, and settlement of negotiated national defense prime contracts and subcontracts **in excess of $100,000**.

PL 91-379... *So what did this public law do for us?*

- Exceptions were if contracts were based on established or market prices or fixed by law or regulation.
- Small businesses were also exempt.

History of CAS

- In **1980**, Congress felt that the mission of the Board was mostly accomplished and did not appropriate additional funds.
- By then, 19 cost accounting standards were promulgated.
- The **original Board ceased to function on 30 September 1980**.

History of CAS

- Afterwards, contracting agencies (principally the Department of Defense) continued to enforce the original CASB's rules and regulations.
- Contracts issued after the CASB's demise continued to be subject to the CAS clause requiring submission of a **Disclosure Statement** and compliance with the standards.

PL 100-679... *So what did this public law do for us?*

- In **1988**, President Reagan signed into legislation *Public Law 100-679* .
- This law reestablished a new CAS Board in **March 1989**, within the Executive Branch of the Federal Government.
- Previously, the CAS Board was an independent agency chaired by the Legislative Branch.

PL 100-679... *So what did this public law do for us?*

- Of course, the CASB exempted certain categories of contracts (e.g., those in which price was based on established catalog or market prices, or contracts awarded to a small business concern).
- The original CASB promulgated 19 standards, CAS 401 to CAS 420 (there is no CAS 419) before ceasing to exist in 1980.

PL 100-679... *So what did this public law do for us?*

- Public Law 100-679 reestablished a ***new* Cost Accounting Standards Board**, which, like the original, also had 5 members.
- However, the makeup of the Board is somewhat different than the original CASB.

PL 100-679... *So what did this public law do for us?*

- The new Board is chaired by the Administrator of the Office of Federal Procurement Policy (OFPP).
- The other members, all of whom must have experience in government contract cost accounting, are appointed as follows:
  - 1 from the Department of Defense
  - 1 from the General Services Administration (GSA)
  - 1 from the accounting profession
  - 1 from industry

PL 100-679... *So what did this public law do for us?*

- PL 100-679 expanded CAS coverage to **include all covered *government* (not just defense) contracts and subcontracts** and raised the minimum contract threshold to $500,000.
- The Terms of the Board members are still 4 years, but they are now staggered.

PL 100-679... *So what did this public law do for us?*

- The new law provided that all 19 standards and related exemptions, interpretations, rules, and regulations promulgated by the *original* CASB would remain in effect until amended, superseded, or rescinded by the new Board.
- Since their first meeting on **25 July 1990**, they have made many significant changes to the CAS rules and regulations

Both public laws provide that covered contractors *must:*

(1) Comply with CAS and disclose in writing and follow consistently their cost accounting practices (including methods for distinguishing a direct cost from an indirect cost). 48 CFR 9903.101

(2) Agree to a price adjustment with interest for any increased costs paid by the government as a result of the contractor's noncompliance with CAS or failure to consistently follow their disclosed practices. 48 CFR 9903.201-4

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Both public laws provide that covered contractors *must:*

- In a nutshell, the laws require the covered contractor to pay back to the government any costs incurred, including interest, as a result of its failure to follow CAS or its disclosed cost accounting practices

The Preambles to the CAS

- The original CAS, published under Public Law 91-379 and codified in CFR Title 4 contains preambles that provide insight into the thought process that helped formulate the standards and related regulations.
- The new CASB also prepared preambles to its revisions made to the original CAS.
- When researching CAS issues, this material can be extremely helpful.

The Preambles to the CAS

Preamble Title	Description
Preamble to Part 331	Contract Coverage Requirements
Preambles to Part 332	Modified Contract Coverage Requirements
Preambles to Part 351	Disclosure Statement Requirements
Preamble to Recodification	CAS Recodification 4-17-92 (OFPP)
Preambles to Amendments	CAS Amendments 11-4-93 (OFPP)
Preambles to Amendments	CAS Amendments 9-22-94 (OFPP)
Preamble to	Disclosure Statement

CAS Structure

- The recodified Cost Accounting Standards are found in *Chapter 99 of Title 48* of the Code of Federal Regulations (CFR). **To cite the CAS rules and regulations, use CFR Title 48, followed by the chapter, part, and section number.**
- For example, *48 CFR 9903.303* refers to Title 48, Chapter 99, Part 3, Section 303.

CAS Structure

- **References to a *specific standard* should be "CAS" followed by the numerical cite and specific section within the standard.**
- For example, CAS 402 refers to the standard, and *CAS 402.50(b)* refers to a specific section of the standard.
- CAS is structured to enhance its usability. Public Law 100-679 organized the format of the standards (at 48 CFR Chapter 99) into the sections shown on the next chart.

CAS Structure

Standard Section	Area Discussed
4XX. 10	Reserved
4XX. 20	Purpose
4XX. 30	Definitions
4XX. 40	Fundamental Requirement
4XX. 50	Techniques for Application
4XX. 60	Illustrations
4XX. 61	Interpretations
4XX. 62	Exemptions
4XX. 63	Effective Date
4XX. 64	Appendix or Other Supplemental

Latest Information

- **On June 9, 2000**, the CASB issued a final rule affecting CAS applicability, thresholds and waiver of CAS coverage to implement provisions included in the National Defense Authorization Act for FY 2000.
- This ruling adds an exemption from CAS, for contracts valued at less than $7.5 million, provided the business unit is not currently performing any CAS-covered contracts valued at $7.5 million or more.

CASB and Beyond . . .

- Continuing on with our CAS history lesson, remember, the original CASB began issuances on 1 **July 1972** with the following:
  - Requirements for CAS coverage and applicability
  - Disclosure Statement filing requirements
  - Cost Accounting Standard 401 - Consistency in Estimating, Accumulating and Reporting Costs
  - Cost Accounting Standard 402 - Consistency in Allocating Costs for the Same Purpose

CASB and Beyond . . .

- The above issuances alone would have revolutionized government contracting -- but the CASB went much further. Seventeen more standards followed.

CASB and Beyond . . .

- Notice that along with the first two standards the CASB issued criteria on contract coverage and
- **disclosure statement** requirements. The Board also issued guidance on a variety of other subjects, including:
  - Contract clauses
  - Definition of an accounting practice
  - Accounting system and practice changes
  - Materiality
  - Interpretations of contract clauses

CASB and Beyond . . .

- *Remember . . . CAS includes more than the promulgated Standards. CAS rules and regulations are just as important!*
- Congress stopped funding the original CASB on 30 September 1980 after 19 standards had been established.
- The Board had accomplished everything the members originally set out to do.

CASB and Beyond . . .

- Question: *What effect did the original CASB's demise have on the standards?*

Answer: All Standards Remained in Full Effect!!

Since they were public law, they could be modified only by act of Congress, or by an agency empowered by Congress. The DoD attempted to reestablish the Board in the early 1980s, but was

CASB and Beyond . . .

- In **June 1982** the constitutionality of the CAS was challenged in the Court of Claims.
- The court did not rule on the specific challenge but stated that, in any event, the CAS were enforceable because they had been adopted by DoD as part of their acquisition regulations and were included in applicable contracts.

CASB and Beyond . . .

- The existing CAS survived the challenge.
- But with the original CASB dissolved, the standards were frozen as they existed in September 1980.
- In **October 1983**, the DoD General Counsel requested the Department of Justice to render a legal opinion on whether DoD could assume the original CASB's authority

CASB and Beyond . . .

- In **November 1983**, the Department of Justice issued its opinion that DoD was legally free to adopt, reject, or grant exemptions to the CAS.
- This opinion was based on the **1982 Court of Claims decision**.

CASB and Beyond . . .

- DoD began studying various ways to assume full authority for CAS, deciding in **May 1984** that CAS should be included in the FAR.
- Although many of the standards were effectively included in the FAR (via FAR references to specific standards), formal inclusion would enable the DoD to administer and change the CAS through normal rule-making procedures contained in the FAR.

CASB and Beyond . . .

- Finally, effective **September 1987**, the original CAS were incorporated into *FAR Part 30.*
- Meanwhile, as early as **1976** the DoD realized they needed help in developing CAS guidance for procurement officials out in the trenches.

CASB and Beyond . . .

- In response, they created the *CAS Working Group* in order to tackle some very complex issues involving CAS interpretation and implementation.
- During its existence, the CAS Working Group published 25 *Interim Guidance Papers* , of which 21 are still in effect.

CASB and Beyond . . .

- Under *Public Law 100-679 ,* Congress reestablished the CASB in **1988**.
- Effective **17 April 1992**, the standards and most of the CASB rules and regulations were removed from FAR Part 30 and recodified into *48 CFR Chapter 99* .
- Chapter 99 is now under exclusive control of the new CASB.

CASB and Beyond . . .

- To say the least, the task of the new CASB was not to be an easy one!
- It had been nearly 20 years since the first standard was issued and a lot had changed since then in the procurement and economic environment.
- Although no *new* standards have been issued to date, the new CASB has been very busy, addressing many issues of particular importance to DCAA and others

The New CASB has:

- Increased the threshold for minimum and initial CAS coverage
- Expanded modified coverage to include CAS 401, 402, 405, and 406
- Extended CAS coverage to educational institutions (500 series)

The New CASB has:

- Updated the Disclosure Statement
- Revised CAS 412 and 413 (the pension standards)
- Revised CAS 404 and 409 (capitalization and depreciation standards)
- Revised CAS exemption criteria under 48 CFR 9903.201-1

Is the CASB done?

- The Cost Accounting Board is still meeting and deciding on current issues.
- We can expect to see some additional Cost Accounting Standards in the future.
- What do you think some of the issues will be?